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RR RUEHLN RUEHSK RUEHVK RUEHYG
DE RUEHDBU #1470/01 3430808
ZNR UUUUU ZZH
R 080808Z DEC 08
FM AMEMBASSY DUSHANBE
TO RUEHC/SECSTATE WASHDC 1237
INFO RUCNCIS/CIS COLLECTIVE
RUEATRS/DEPT OF TREASURY WASHINGTON DC
RUCPDOG/USDOC WASHDC
RHEHNS/NSC WASHINGTON DC
RUEHLO/AMEMBASSY LONDON 0011

UNCLAS SECTION 01 OF 02 DUSHANBE 001470

SENSITIVE
SIPDIS

DEPARTMENT FOR SCA/CEN

E.O. 12958: N/A

TAGS: [ECON](#) [EIND](#) [EMIN](#) [PGOV](#) [TI](#)

SUBJECT: TALCO SETTLES MULTI-MILLION DOLLAR LAWSUIT IN BRITISH COURTS

11. (SBU) Summary. On November 27, Tajik Aluminum Company (Talco), Tajikistan's largest enterprise, settled a three-year lawsuit in British courts against former Talco managers and suppliers, whom it alleged defrauded the company of \$500 million. Details of the settlement have not been released, but embassy contacts say Talco got \$200 million in the deal. The lawsuit, which had grown into one of the most expensive cases in UK legal history, has already cost Talco at least \$134 million in legal fees, fueling charges that the government of one of the world's poorest countries has misplaced priorities. Such accusations perhaps played a role in the decision to settle this case, but have not ended the legal wrangling. There is talk that Talco may now be considering a suit against Russian aluminum giant Rusal, which it accuses of participating in the fraud. End summary.

SETTLEMENT ANNOUNCED

12. (SBU) On November 27, Tajik Aluminum Company (Talco) withdrew its \$500 million lawsuit in British courts against the Ansol company, run by former Talco supplier Avaz Nazarov. The suit had gained international notoriety as one of the most expensive cases ever litigated in the United Kingdom, with legal bills topping GBP 90 million (\$134 million) -- equivalent to over 3.6% of Tajikistan's 2007 GDP. (An Embassy source says that Talco's bills have actually topped \$150 million, although this has not yet been reported in the press.) According to a brief statement issued by Talco and confirmed by Ansol, the parties reached a settlement in the case with no admission of liability by either side. Ansol dropped a \$130 million countersuit it filed against Talco. Talco said it would hold a press conference to reveal further details about the settlement.

13. (U) Talco initiated the lawsuit in 2005 against its former director, Abdukadir Ermatov, and his son, Cherkod, accusing them of accepting lavish bribes from the company's main supplier of alumina, a group of companies controlled by Nazarov. According to lawyers for Talco, the defendants conspired to divert more than \$500 million in profits between 1996 and 2004, when President Rahmon ousted the Ermatovs and Nazarov. The defendants denied the charges and launched their counterclaim against current Talco management, including members of the President's family and inner circle. The case has had an international character as well, with claims emerging that Russian billionaire Oleg Deripaska, who controls the aluminum giant Rusal, was involved in the scheme with Nazarov. Talco lawyers alleged that Ansol partnered with Rusal to sell the smelter alumina at grossly inflated prices, then buy processed aluminum at a bargain rate. Rusal has denied wrongdoing.

14. (U) After the ouster of Talco's former management team in 2004, control of the operation -- and its substantial profits -- was moved offshore to the British Virgin Islands. Under the new management arrangement, a company called CDH Investments, which reportedly is controlled by President Rahmon and several other prominent Tajik

figures, pays Talco a straight "tolling fee" for the use of the smelter. CDH provides Talco with inputs, including alumina, and reaps whatever profit (or loss) emerges from sale of the smelter's output on the world market. Since Tajikistan imports all of the raw materials required for aluminum production and lies at the end of a long and difficult supply line, Talco's single competitive advantage Qlong and difficult supply line, Talco's single competitive advantage has been the country's bargain-basement electricity prices, which are kept below generation costs by the political leadership. Critics, including the defendants in the London court case, accuse the government of defrauding its citizens by directing crucial energy resources to the smelter and then exporting its profits offshore, so that the state coffers see little in the way of income or tax revenue. At the same time, Tajikistan's citizens continue to suffer from chronic energy shortages, with most parts of the country currently limited to six or seven hours of power per day.

TALCO RUMORED TO GET \$200 MILLION IN DEAL

15. (SBU) While no details about the settlement have appeared in the press, an Embassy contact with ties to Talco reported to us that Ansol had agreed to compensate Talco in the amount of \$200 million by transferring property in Tajikistan belonging to Nazarov, including several buildings, schools, and other real estate, to the Tajik government and by repaying debt to Tajikistan's state electricity company Barki Tojik for electricity used during the late 1990s and early 2000s. Reportedly, Ansol also agreed to repay Talco's debt to Gerald Metals, a U.S. firm which sued Talco for non-delivery of aluminum for which Gerald paid \$25 million.

16. (SBU) Another Embassy contact, who works for an international financial institution in Dushanbe, said that if the \$200 million settlement figure was real, it would be a considerable achievement

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for Talco in a case that has otherwise been an embarrassment for the company. He had seen some circumstantial evidence that Talco was happy with the settlement. At a party he attended earlier this week, Talco Deputy Director Sherali Kabirov showed up unexpectedly, "a little tipsy" and in exceptionally high spirits, and clapped everyone on the back. When asked why Talco might have decided to settle now, our contact speculated that it was connected with the low price of aluminum on world markets. Talco management might have doubted there was much more to gain from Ansol, which is also affected by the slump.

17. (SBU) Many top Tajik officials were in London to participate in the case, including Murodali Alimardon, Deputy Prime Minister and former head of the National Bank; Faizullo Kholboboiev, Tajikistan's representative to the Eurasian Economic Community in Moscow and former advisor to President Rahmon on economic policy; Hasan Asadullozoda, chief of Tajikistan's largest private bank, Orion Bank; Jamshed Ziyaev, head of TajPromBank and Chief Prosecutor of the city of Tursunzade, where TALCO is located; and Gulomjon Bobozoda, Minister of Economic Development and Trade.

18. (SBU) According to Embassy's contact, Talco had some documentary evidence against Deripaska's Rusal company and was now planning to file a case against the Russian aluminum giant. Our contact speculated that this strategy was a dangerous one, however, because Rusal was likely to have similarly incriminating evidence against Talco that it could reveal in open court.

TOUGH TIMES FOR TALCO

19. (SBU) Even with the rumored \$200 million settlement -- which comes out to only some \$50 million after the company pays its legal fees -- these are difficult times for Talco. In the face of the world economic crisis aluminum prices are as low as \$1,400 per ton, over 50% off their summer high. Our contact reports that some 50,000 tons of aluminum currently lie unsold in Talco's warehouses. While because of the tolling arrangement this will not have a direct impact on Tajikistan's economy -- since profits are taken off-shore the country in fact did not benefit when times were good -- it may have an indirect effect as the President and other Talco beneficiaries cast about for ways to replace their lost income.

¶10. (SBU) Comment: If the \$200 million figure proves to be accurate, Talco did better than expected in the settlement. Initial speculation suggested that Talco settled the case for little or nothing in order to stem its hemorrhaging legal expenses and international embarrassment. Rumors that President Rahmon himself might be called to testify may have been another inducement to end the case. In the end, however, the primary consideration may simply have been cold, hard cash. End comment.

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